



FEDERAL RESERVE SYSTEM

12 CFR Parts 217

Regulation Q; Docket Nos. R- 1442; R-1460; and R-1535

RIN 7100-AD 87; RIN 7100-AD 99; and 7100 AE-49

Regulatory Capital Rules; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; correcting amendments.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) published a final rule in the Federal Register on October 11, 2013, regarding Regulatory Capital Rules. This publication corrects a typographical error in those rules whereby a transition provision was unintentionally deleted. The Board also published inconsistent amendments to Regulation Q in final rules published in the Federal Register on May 1, 2014, and August 14, 2015, that pertain to firms identified as global systemically important bank holding companies (GSIBs). This publication resolves these inconsistencies.

DATES: These correcting amendments are effective [**Insert date of publication in the Federal Register**].

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SUPPLEMENTARY INFORMATION: The Board is correcting an error in the final rule that was published in the Federal Register on October 11, 2013.¹ The Board is correcting a typographical error in this final rule that caused the unintended deletion of 12 CFR 217.300(c)(1)(i)-(iv), which was initially adopted by the Board on July 2, 2013. Through this correction, the provision pertaining to the grandfathering of certain non-qualifying capital instruments in tier 2 capital for depository institution holding companies with \$15 billion or more in total assets as of December 31, 2009, that are not advanced approaches banking organizations and for depository institution holding companies that are advanced approaches banking organization would be reflected in the rule.

The Board is also correcting conflicting amendments in final rules published in the Federal Register on May 1, 2014, (79 FR 24528) and August 14, 2015, (80 FR 49082). The May 1, 2014, final rule amended 12 CFR 217.11(a)(4)(ii) effective January 1, 2018. The August 14, 2015, final rule also amended 12 CFR 217.11(a)(4)(ii) effective December 1, 2015, and did not alter the amendments to that paragraph contained in the May 1, 2014, final rule, which are effective on January 1, 2018. As a result, without these corrections the revisions to 12 CFR 217.11(a)(4)(ii) that were effective December 1, 2015, would have been undone effective January 1, 2018. This would have been contrary to the Board's stated intent in the August 14, 2015, final rule that the GSIB surcharge augment the capital conservation buffer.² In addition, this would have created situations where 12 CFR 217.11(a)(4)(i) and 12 CFR 217.11(a)(4)(ii) were in conflict.

¹ 78 FR 62018 (October 11, 2013).

² 80 FR 49082 (August 14, 2015).

List of Subjects in 12 CFR Part 217

Administrative practice and procedure, Banks, Banking, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, chapter II of title 12 of the Code of Federal Regulations is amended by the following correcting amendments.

PART 217—CAPITAL ADEQUACY OF BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND STATE MEMBER BANKS

(REGULATION Q)

1. The authority citation for part 217 continues to read as follows:

AUTHORITY: 12 U.S.C. 248(a), 321-338a, 481-486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p-1, 1831w, 1835, 1844(b), 1851, 3904, 3906-3909, 4808, 5365, 5368, 5371.

2. In § 217.11, paragraph (a)(4)(ii) is revised to read as follows:

§ 217.11 Capital conservation buffer, countercyclical capital buffer amount, and GSIB surcharge.

(a) * * *

(4) * * *

(ii) A Board-regulated institution with a capital conservation buffer that is greater than 2.5 percent plus 100 percent of its applicable countercyclical capital buffer in accordance with paragraph (b) of this section, and 100 percent of its applicable GSIB surcharge, in accordance with paragraph (c) of this section, and, if applicable, that has a leverage buffer that is greater than 2.0 percent, in accordance with paragraph (d) of this section, is not subject to a maximum payout amount under this section.

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3. In § 217.300, add paragraphs (c)(1)(i) through (iv) to read as follows:

§ 217.300 Transitions.

* * * * *

(c) * * *

(1) * * *

(i) A depository institution holding company of \$15 billion or more may include in tier 1 and tier 2 capital non-qualifying capital instruments up to the applicable percentage set forth in Table 8 to § 217.300 of the aggregate outstanding principal amounts of non-qualifying tier 1 and tier 2 capital instruments, respectively, that are outstanding as of January 1, 2014, beginning January 1, 2014, for a depository institution holding company of \$15 billion or more that is an advanced approaches Board-regulated institution that is not a savings and loan holding company, and beginning January 1, 2015, for all other depository institution holding companies of \$15 billion or more.

(ii) A depository institution holding company of \$15 billion or more must apply the applicable percentages set forth in Table 8 to § 217.300 separately to the aggregate amounts of its tier 1 and tier 2 non-qualifying capital instruments.

(iii) The amount of non-qualifying capital instruments that must be excluded from additional tier 1 capital in accordance with this section may be included in tier 2 capital without limitation, provided the instruments meet the criteria for tier 2 capital set forth in § 217.20(d).

(iv) Non-qualifying capital instruments that do not meet the criteria for tier 2 capital set forth in § 217.20(d) may be included in tier 2 capital as follows:

(A) A depository institution holding company of \$15 billion or more that is not an advanced approaches Board-regulated institution may include non-qualifying capital instruments that have been phased-out of tier 1 capital in tier 2 capital, and

(B) During calendar years 2014 and 2015, a depository institution holding company of \$15 billion or more that is an advanced approaches Board-regulated institution may include non-qualifying capital instruments in tier 2 capital that have been phased out of tier 1 capital in accordance with Table 8 to § 217.300. Beginning January 1, 2016, a depository institution holding company of \$15 billion or more that is an advanced approaches Board-regulated institution may include non-qualifying capital instruments in tier 2 capital that have been phased out of tier 1 capital in accordance with Table 8, up to the applicable percentages set forth in Table 9 to § 217.300.

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By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, December 29, 2017.

Ann E. Misback,
Secretary of the Board.

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